

85th Legislative Session – 2010

Committee: Senate Judiciary

Tuesday, March 02, 2010

P - Present
E - Excused
A - Absent

Roll Call

P Gillespie
P Heidepriem
P Schmidt
P Turbak Berry
P Vehle
P Tieszen, Vice-Chair
P Abdallah, Chair

OTHERS PRESENT: See Original Minutes

The meeting was called to order by Senator Gene G. Abdallah, Chair.

MOTION: TO APPROVE THE MINUTES OF THURSDAY, FEBRUARY 25, 2010

Moved by: Gillespie
Second by: Tieszen
Action: Prevailed by voice vote.

HB 1105: permit the record of a person's arrest to be expunged.

Presented by: Senator Thomas Nelson
Proponents: Roger Tellinghuisen, SD Trial Lawyers Association
Opponents: Chuck Schroyer, SD States Attorneys Association

MOTION: AMEND HB 1105

1105rc

On page 2, line 9, of the House Judiciary Committee engrossed bill, delete "shall" and insert "may".

Moved by: Gillespie
Second by: Vehle
Action: Prevailed by voice vote.

MOTION: DO PASS HB 1105 AS AMENDED

Moved by: Heidepriem
Second by: Turbak Berry
Action: Was not acted on.

HB 1244: increase the penalty for solicitation of a minor.

Presented by: Representative Joni Cutler
Proponents: Aaron McGowan, Minnehaha Co. States Attorney
Susan Randall, SD Voices For Children

MOTION: DO PASS HB 1244

Moved by: Turbak Berry
Second by: Gillespie
Action: Prevailed by roll call vote. (7-0-0-0)

Voting Yes: Gillespie, Heidepriem, Schmidt, Turbak Berry, Vehle, Tieszen, Abdallah

The gavel was passed to Senator Craig Tieszen, Vice-Chair

HB 1131: revise certain provisions concerning intoxicated or incapacitated persons who may be taken into protective custody.

Presented by: Representative Joni Cutler
Proponents: Stacy Kooistra, self, Sioux Falls
Kenneth McFarland, Jr., Minnehaha County
Deb Fischer Clemens, Avera Health
Terrance Dosch, SD Council of Mental Health Centers/
SD Council of Substance Abuse Directors
Phyllis Arends, NAMI SD
Staci Eggert, SD Sheriff's Association
Betty Oldenkamp, Lutheran Social Services
Gordy Swanson, Minnehaha County

MOTION: DO PASS HB 1131

Moved by: Abdallah
Second by: Gillespie
Action: Prevailed by roll call vote. (7-0-0-0)

Voting Yes: Gillespie, Heidepriem, Schmidt, Turbak Berry, Vehle, Tieszen, Abdallah

HB 1132: provide for the referral and placement of certain individuals in need of intervention.

Presented by: Representative Joni Cutler
Proponents: Stacy Kooistra, self, Sioux Falls
Kenneth McFarland, Jr., Minnehaha County
Deb Fischer Clemens, Avera Health
Terrance Dosch, SD Council of Mental Health Centers/
SD Council of Substance Abuse Directors
Phyllis Arends, NAMI SD
Staci Eggert, SD Sheriff's Association
Betty Oldenkamp, Lutheran Social Services
Gordy Swanson, Minnehaha County

MOTION: DO PASS HB 1132

Moved by: Heidepriem
Second by: Gillespie
Action: Prevailed by roll call vote. (7-0-0-0)

Voting Yes: Gillespie, Heidepriem, Schmidt, Turbak Berry, Vehle, Tieszen, Abdallah

The gavel was returned to Senator Gene G. Abdallah, Chair

HB 1105: permit the record of a person's arrest to be expunged.

THE MOTION TO DO PASS HB 1105 AS AMENDED

Moved by: Heidepriem
Second by: Turbak Berry
Action: PREVAILED BY ROLL CALL VOTE. (6-1-0-0)

Voting Yes: Gillespie, Heidepriem, Schmidt, Turbak Berry, Tieszen, Abdallah

Voting No: Vehle

HB 1109: revise certain provisions of the Uniform Limited Liability Company Act and to provide for certain filing fees relevant thereto.

Presented by: Senator Dave Knudson

Proponents: Representative David Lust
Tom Barnett, State Bar Association of South Dakota

MOTION: AMEND HB 1109

1109jc

On page 13, after line 20 of the House Judiciary Committee engrossed bill, insert:

"

Section 16. That § 47-1A-728 be amended to read as follows:

47-1A-728. ~~Unless otherwise provided in the articles of incorporation, directors are elected by a plurality of the votes cast by the shares entitled to vote in the election at a meeting at which a quorum is present.~~ Shareholders may cumulate their votes for directors. The right to cumulate votes for directors means that the shareholders are entitled to multiply the number of votes that they are entitled to cast by the number of directors for whom they are entitled to vote and cast the product for a single candidate or distribute the product among two or more candidates.".

Moved by: Gillespie

Second by: Tieszen

Action: Prevailed by voice vote.

MOTION: DO PASS HB 1109 AS AMENDED

Moved by: Gillespie

Second by: Turbak Berry

Action: Prevailed by roll call vote. (7-0-0-0)

Voting Yes: Gillespie, Heidepriem, Schmidt, Turbak Berry, Vehle, Tieszen, Abdallah

MOTION: AMEND TITLE OF HB 1109

1109jta

On page 1, line 1, of the House Judiciary Committee engrossed bill, delete "of the Uniform Limited" and insert "related to business organizations".

On page 1, line 2, delete "Liability Company Act".

Moved by: Gillespie
Second by: Vehle
Action: Prevailed by voice vote.

MOTION: PLACE HB 1109 ON CONSENT CALENDAR

Moved by: Heidepriem
Second by: Gillespie
Action: Prevailed by voice vote.

HB 1201: provide that certain tax laws applicable on December 31, 2009, apply to certain wills and trusts that refer to federal estate and generation-skipping transfer tax laws, and to declare an emergency.

Presented by: Representative David Lust
Proponents: Larry Mann, SD CPA Society

MOTION: DO PASS HB 1201

Moved by: Turbak Berry
Second by: Gillespie
Action: Prevailed by roll call vote. (7-0-0-0)

Voting Yes: Gillespie, Heidepriem, Schmidt, Turbak Berry, Vehle, Tieszen, Abdallah

HB 1231: provide for the monitoring of the prescribing and dispensing of controlled substances.

Presented by: Senator Kathy Miles
Proponents: Nancy Kueter, Rapid City
Dave Hewett, SD Association of Healthcare Organizations
Wade Juracek, self, Gregory
Bob Riter Jr., SD Pharmacists Association
Ronald Huether, self, Sioux Falls
Dean Krogman, SD State Medical Association

Brittany Novotny, SD Nurses Association
Terrance Dosch, SD Council of Substance Abuse Directors
Charlie McGuigan, Office of the Attorney General (Handouts: #1)
Representative David Lust

MOTION: AMEND HB 1231

1231jf

On page 7, between lines 23 and 24 of the House engrossed bill, insert:

"

- (8) One member of the South Dakota State Medical Association;
- (9) One member of the South Dakota Nurses Association;
- (10) One member of the South Dakota Pharmacists Association;"

On page 7, line 24, delete "(8)" and insert "(11)".

On page 8, line 1, delete "(9)" and insert "(12)".

On page 8, line 2, delete "(10)" and insert "(13)".

Moved by: Tieszen
Second by: Turbak Berry
Action: Prevailed by voice vote.

MOTION: AMEND HB 1231

1231jg

On page 3, line 3, of the House engrossed bill, delete everything after "include" and insert "specifically identified data elements adopted by the board and contained in the 2005 version of the electronic".

Moved by: Gillespie
Second by: Heidepriem
Action: Prevailed by voice vote.

THE CHAIR DEFERRED HB 1231 UNTIL THURSDAY, MARCH 4, 2010

THE CHAIR DEFERRED HB 1187 UNTIL THURSDAY, MARCH 4, 2010

THE CHAIR DEFERRED HB 1177 UNTIL THURSDAY, MARCH 4, 2010

THE CHAIR DEFERRED HB 1164 UNTIL THURSDAY, MARCH 4, 2010

THE CHAIR DEFERRED HB 1110 UNTIL THURSDAY, MARCH 4, 2010

THE CHAIR DEFERRED HB 1228 UNTIL THURSDAY, MARCH 4, 2010

THE CHAIR DEFERRED HB 1167 UNTIL THURSDAY, MARCH 4, 2010

HB 1136: limit asbestos-related liabilities for certain successor corporations.

Presented by: Dick Gregerson, Crown, Cork & Seal

Proponents: Michael Rowley, Crown, Cork & Seal

THE CHAIR DEFERRED HB 1136 UNTIL THURSDAY, MARCH 4, 2010

MOTION: ADJOURN

Moved by: Gillespie

Second by: Tieszen

Action: Prevailed by voice vote.

Rena Ortbahn
Committee Secretary

Gene G. Abdallah, Chair